

Counsel listed on next pages

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Philip Wong, Frederic Chaussy, and Leslie
Marie Shearn, individually, on behalf of all
others similarly situated, and on behalf of
the general public,

Plaintiffs,

vs.

HSBC Mortgage Corporation (USA);
HSBC Bank USA, N.A.; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 3:07-cv-2446 MMC

**STIPULATION AND ~~[PROPOSED]~~
ORDER FOR TOLLING OF FLSA
STATUTES OF LIMITATIONS
REGARDING CLASS AND PUTATIVE
CLASS MEMBERS AND MOVING
HEARING ON PLAINTIFFS' MOTION
FOR CONDITIONAL CERTIFICATION**

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Attorneys for Defendants
HSBC MORTGAGE CORPORATION (USA) and
HSBC BANK USA, N.A.

1 PURSUANT TO LOCAL RULE 7-12, Plaintiffs Philip Wong, *et al.* and
2 Defendants HSBC Mortgage Corporation (USA) and HSBC Bank USA, NA (collectively, “the
3 parties”) stipulate as follows:

4 WHEREAS, the parties understand that scheduling difficulties arise during the
5 holiday season;

6 WHEREAS, the parties have agreed, upon Court approval, that Plaintiffs and
7 putative Plaintiffs’ Class Members should not be adversely affected by counsel’s scheduling
8 requirements;

9 WHEREAS, the FLSA, 29 U.S.C. § 216(b) does not toll the statute of limitations
10 on FLSA claims until each class member “opts-into” the suit;

11 WHEREAS, Plaintiffs have filed a motion for conditional certification which, if
12 successful, would provide for judicial notice to class members, to notify them of an opportunity to
13 “opt-into” the suit;

14 WHEREAS, Defendants wish to postpone the hearing on this motion until
15 February 8, 2008, from its current January 25, 2008 date, due to previous holiday plans, as
16 noticed in the Notice of Unavailability filed with the Court on November 13, 2007, as well as due
17 to a previously scheduled business trip planned by lead counsel, George J. Tichy and Michelle R.
18 Barrett, for January 24 and 25, 2008; and

19 WHEREAS, nothing by this stipulation or any other written or oral agreement by
20 Defendants shall be construed as an admission or a waiver that class certification or a collective
21 action in this case is appropriate;

22 IT IS HEREBY STIPULATED by and between the parties to this action through
23 their designated counsel as follows:

24 The parties respectfully request that this Court toll the statute of limitations for all FLSA
25 claims for a period of two (2) weeks for any putative Plaintiffs’ class members who file a
26 “Consent” or “Opt-In” form after the date this Court decides upon the Plaintiffs’ motion for
27 conditional certification, currently on file. The effect of such tolling shall be that any putative
28

1 class members shall have two (2) weeks added to the statute of limitations applying to each
2 putative class member's claims.

3
4 Dated: January 2, 2008

NICHOLS KASTER & ANDERSON, LLP

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6
7 By: _____/s/
Bryan J. Schwartz
Attorneys for Plaintiffs and Representative Plaintiffs

8
9 Dated: January 2, 2008


10 LITTLER MENDELSON, PC

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12
13 By: _____/s/
Michelle R. Barrett
Attorneys for Defendants

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15
16 **ORDER**

17 PURSUANT TO STIPULATION, IT IS SO ORDERED, and the hearing on plaintiffs' motion is
18 continued to February 8, 2008, at 9:00 a.m.

19
20 Dated: January 4, 2008

21 
Honorable Maxine M. Chesney
United States District Court Judge